



MEMO

**To:** Finance & Personnel Committee  
 Association of Bay Area Governments

**Fr:** Marcus Beverley, Risk Manager *MB*  
 Kenneth Moy, Legal Counsel *KG*

**Re:** Workers Compensation – Volunteers

**Dt:** September 4, 2008

**BACKGROUND AND ANALYSIS**

ABAG participates in SHARP<sup>1</sup>, a self-funded workers compensation insurance pool with retained limits of Two Hundred Fifty Thousand Dollars (\$250,000) and a pooled purchased excess policy from LAW<sup>2</sup>CX. Labor Code Section 3363.5 permits local agencies, including ABAG, to extend workers compensation insurance coverage to unpaid volunteers when performing on behalf of the agency. A volunteer is defined as a person who receives no remuneration for the service, other than meals, transportation, lodging, or reimbursement for incidental expenses.

In the past, program staff has had to secure volunteers through third parties that provided workers compensation insurance, obtain liability waivers from volunteers or forego use of volunteers altogether. We are of the opinion that ABAG can better manage the risks associated with the use of volunteers by extending workers compensation coverage to them. ABAG will also be able to accept student interns from programs that require workers compensation coverage for them.

SHARP will not impose a premium increase for including volunteers<sup>3</sup>. SHARP has reserves in that exceed an actuarial confidence level of ninety five per cent (95%). LAW<sup>2</sup>CX does not charge any additional premiums for volunteers in non-public safety roles.

**REQUESTED ACTION:** Staff requests that the committee recommends the Executive Board adopt Resolution 06-08 (attached). The item will be placed on the Executive Board Consent Calendar and withdrawn if the committee declines to make the recommendation.

<sup>1</sup> Members are: City of Saratoga, Towns of Los Altos Hills and Ross and ABAG.

<sup>2</sup> Local Agency Workers Compensation Excess Pool is a 'pool of pools'.

<sup>3</sup> SHARP has reserves sufficient to achieve an actuarial confidence level of ninety per cent (90%).



**ASSOCIATION OF BAY AREA GOVERNMENTS  
EXECUTIVE BOARD**

**RESOLUTION NO. 06-08**

**RESOLUTION AFFIRMING THAT VOLUNTEERS FOR THE ASSOCIATION OF BAY  
AREA GOVERNMENTS (ABAG) SHALL BE DEEMED EMPLOYEES FOR  
PURPOSES OF THE STATE WORKERS COMPENSATION LAWS**

The purpose of the California Workers Compensation laws is to provide a protection to persons providing service to employers regardless of the fault of any person and to further provide a non-adversarial process for medical treatment and compensation; and

**WHEREAS**, volunteers provide invaluable services to ABAG; and

**WHEREAS**, inclusion of registered volunteers in the ABAG workers compensation program will provide the volunteers with protection and benefits should injury occur to the volunteers while in the course of volunteering for ABAG.

**ASSOCIATION OF BAY AREA GOVERNMENTS  
RESOLUTION NO. 06-08**

**NOW, THEREFORE, BE IT RESOLVED**, that pursuant to Labor Code § 3363.5, the Executive Board of the Association of Bay Area Governments (ABAG) declares that volunteers to ABAG shall be considered employees of ABAG for purposes of workers compensation laws when the following conditions are met:

1. The volunteer has completed and submitted a volunteer application form; and
2. ABAG has accepted and approved the volunteer for service, and that acceptance and approval is current; and
3. The volunteer is injured during the course of performing service that has been authorized and directed by ABAG for that volunteer; and
4. The volunteer is receiving no remuneration for the service, other than meals, transportation, lodging, or reimbursement for incidental expenses, from any other agency or person.

The foregoing adopted by the Executive Board this 18<sup>th</sup> day of September, 2008.

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Rose Jacobs Gibson  
President

**Certification of Executive Board Approval**

I, the undersigned, the appointed and qualified Secretary-Treasurer of the Association of Bay Area Governments (Association), do hereby certify that the foregoing resolution was adopted by the Executive Board of the Association at a duly called meeting held on the 18<sup>th</sup> day of September, 2008.

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Henry L. Gardner  
Secretary-Treasurer

**Approved as To Legal Form**

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Kenneth K. Moy  
Legal Counsel